

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

IN RE:	§	
DICKINSON OF SAN ANTONIO, INC.,	§	CHAPTER 11 CASE
DEBTOR.	§	CASE NO. 16-52492-RBK
CHRISTOPHER KINNA, BRITTANY LEE,	§	
DONNA WEST, MELODY SILVERSTEIN,	§	
SARA LANGSTO, ELIZABETH HERNANDEZ,	§	
JENNIFER ALVAREZ, IGNACIO AGUIRRE,	§	
JR., ANEESHA BETTS, STEPHANIE	§	
DELGADO, JACQUELYN WHITE, NAKITA	§	ADV. PRO. _____
ADAMS, CHRISTOPHER KINNA, NORMA	§	
MENDEZ, ERIKA LINDSEY, STEFFANY	§	
BARRERA, CAROLYN RODRIGUEZ,	§	
CLAUDIA TATARIAN, JENNIFER MESA,	§	
DEREK BEDELL, ANNETTE SALAZAR,	§	
CHRISTINA GARCIA, STEPHANIE LAMBERT,	§	
LU AGUILERA, STEPHANIE SOLIS, ISABEL	§	
PALMA, YVONNE MARQUEZ, ROBERT	§	
HERNANDEZ, MARIANA PEREZ, JESSICA	§	
SELVERA, CRYSTAL GARZA, LEONISIA	§	
GARZA, JOSHUA BOTCHWAY, NICOLE	§	
PARKHURST, TANYA MARTINEZ, JESSICA	§	
YTUARTE, BLAKE HERNANDEZ, MICHAEL	§	
DELEON, VERONICA FABELA, STEPHANIE	§	
GARZA, HILDA ALTAMIRANO, LAURA	§	
SEPULVEDA, JOYE TELLO, KIMBERLY	§	
WILLIAMS, OLIVIA GRACIA, MONICA	§	
CASTRO, HEATHER DECILLO, STEPHANIE	§	
CASTORENO, CYNNA LOMAS, TONY SILVA,	§	
SHANICE GIVHAN, VALERIE PLACIDO,	§	
NICOLE ARNECE, KATHERINE LOZANO,	§	
LIZZA WALLACE	§	
PLAINTIFFS,	§	
v.	§	
DICKINSON OF SAN ANTONIO, INC.,	§	
DICKINSON OF AUSTIN, INC., AND	§	
DICKINSON OF SPENCER LANE, INC. d/b/a	§	
CAREER POINT COLLEGE, ACADEMIC	§	
FINANCIAL SOLUTIONS, LLC, SAN ANTONIO	§	
MULTI-MEDIA, INC., LAWRENCE D. EARLE,	§	
CAROL B. KENDALL,	§	
DEFENDANTS	§	

## **NOTICE OF REMOVAL**

Defendant DICKINSON OF SAN ANTONIO, INC. (“Dickinson”) files this Notice of Removal from the 408<sup>TH</sup> Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas (the “Court”) pursuant to 28 U.S.C. § 1452(a), Federal Rule of Bankruptcy Procedure 9027, and Local Rule of Bankruptcy Procedure 9027(b)(1). Under the Local Rules, this pleading is filed in the Bankruptcy Court.

The case filed in Bexar County is a lawsuit seeking to recover damages and claims against Defendants Dickinson of San Antonio, Inc., Dickinson of Austin, Inc., and Dickinson of Spencer Lane, Inc. d/b/a Career Point College, Academic Financial Solutions, LLC, San Antonio Multi-Media, Inc., Lawrence D. Earle, Carol B. Kendall (the “State Court Action” or “Removed Action”). The State Court Action was filed on October 20, 2016 seeking injunctive relief and damages against the Defendants.

### **I. BACKGROUND**

1. The State Court Action styled Plaintiffs’ Original Petition, Application for Ex Parte Temporary Restraining Order and Request For Disclosure was filed by Plaintiffs on October 20, 2016.

2. Dickinson filed a voluntary petition under Chapter 11 of Title 11 on October 31, 2016 in the Western District of Texas, San Antonio Division (assigned Case No. 16-52492-rbk).

### **II. BACKGROUND OF THE BANKRUPTCY CASE**

3. As of this date, the Debtor remains a Debtor in Possession; no trustee has been requested or appointed. No Official Creditors’ Committee has been appointed.

### **III. BACKGROUND OF THE STATE COURT ACTION**

4. On October 20, 2016, Plaintiffs filed their Original Petition Application for Ex Parte Temporary Restraining Order and Request for Disclosure against Defendants in the 408<sup>th</sup> Judicial District Court of Bexar County, Texas and was assigned Cause No. 2016-CI-18306.

5. The Plaintiffs were students at Dickinson of San Antonio, Inc. The Debtor became involved in a dispute with the Department of Education, which ultimately cut off the funding to the Debtor, forcing the Debtor to cease operations on October 17, 2016.

6. On October 20, 2016, an Order Granting Plaintiffs Application For Temporary Restraining Order and Temporary Injunction was entered.

7. No Answers have been filed by any Defendant in the lawsuit.

8. No other Orders have been entered in the State Court lawsuit.

### **IV. THE BANKRUPTCY COURT'S JURISDICTION OVER THE REMOVED ACTION**

9. The Removed Action alleges causes of action against the Defendants, including the Debtor, for deceptive trade practices, common law fraud, negligent misrepresentations, negligent hiring, agency, respondent superior breach of contract and conversion. Plaintiffs ask the Court to award actual damages, treble damages, interest, Court costs, attorneys' fees and a TRO against Defendants. The claims adjudication process arises under the Bankruptcy Code, which governs allowance of claims and grants jurisdiction to limit claims. *See* 28 U.S.C. § 1334 (a), the general grant of jurisdiction to the United States District Court. *See specifically* 28 U.S.C. §1334 (b)(2) granting exclusive jurisdiction over all matters arising under title 11.

10. The causes of action include claims against the Estate of the Debtor in a pending bankruptcy, and have potentially adverse effects on the Estate. This effect is the potential for increased claims against the Estate in the event Plaintiffs successfully prosecute the Removed

Action and obtain a judgment. Trying this suit in state court only increases litigation costs, which the Debtor is not in a position to deal with.

**V. JURISDICTION/CORE PROCEEDING/CONSENT  
TO ENTRY OF FINAL JUDGMENT**

11. The Court has jurisdiction over the Removed Action under 28 U.S.C. §§ 157(b) and 1334(b). This matter is a core proceeding under 28 U.S.C. § 157(b)(1), and the Bankruptcy Court cannot enter final orders. The presence of co-defendants means that the matter must ultimately be determined by a United States District Court capable of exercising supplementary jurisdiction. *See Walker v. Cadle Co. (In re Walker)*, 51 F. 3<sup>rd</sup> 562, 570 (Fifth Cir. 1995), holding that United States Bankruptcy Courts may not exercise supplementary jurisdiction.

12. A copy of the enclosed Notification of Removal to the United States Bankruptcy Court for the Western District of Texas has been filed or will be filed as soon as possible with the Texas State Court.

13. Pursuant to 28 U.S.C. §1146(a), a copy of all executed process, pleadings, Orders, a docket sheet and an index of all matters being filed in the State Court Action are attached hereto as Exhibit "A".

Dated: October 31, 2016

Respectfully submitted,

LANGLEY & BANACK, INC.  
745 E. Mulberry, Suite 900  
San Antonio, TX 78216  
Telephone: (210) 736-6600  
Facsimile: (210) 735-6889

By: /s/ William R. Davis, Jr.  
DAVID S. GRAGG  
State Bar No. 08253300  
WILLIAM R. DAVIS, JR.  
State Bar No. 05565500

ATTORNEYS FOR DICKINSON OF SAN  
ANTONIO, INC., DEBTOR/DEFENDANT

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on October 31, 2016, a true and correct copy of the foregoing document was filed electronically with the Court and served electronically upon those parties registered to receive electronic notice via the Court's CM/ECF system, and to counsel for Plaintiffs and Defendants at the addresses listed below through United States Mail, postage prepaid.

Attorneys for Plaintiffs

Mr. Aric J. Garza  
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Defendants

Mr. Lawrence Drexel Earle  
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Ms. Carol Kendall  
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Dickinson of San Antonio, Inc.  
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San Antonio Multi-Media, Inc.  
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/s/ William R. Davis, Jr.  
William R. Davis, Jr.